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State of New Hampshire

DEPARTMENT OF ADMINISTRATIVE SERVICES
25 Capitol Street – Room 100
Concord, New Hampshire 03301
(603) 271-3201 Office@das.nh.gov

Charles M. Arlinghaus
Commissioner

Catherine A. Keane
Deputy Commissioner

Sheri L. Rockburn
Assistant Commissioner

November 29, 2023

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Authorize the Department of Administrative Services to enter into a contract with Genuine Parts Company, Inc. (VC#346974), Atlanta, GA, in an amount up to and not to exceed \$358,530.14 for the supply of automotive parts through a participating addendum with the National Association of State Procurement Officials (NASPO) Value Point contract 7-21-99-41-02, effective upon Governor and Executive Council approval through October 19, 2024.

Funding shall be provided through individual agency expenditures, none of which shall be permitted unless there are sufficient appropriated funds to cover the expenditure.

EXPLANATION

The Department of Administrative Services (DAS) is requesting to participate in this NASPO master agreement (7-21-99-41-02) via a participating addendum. This participating addendum is aligned with the master agreement set in place by NASPO and the lead state, California, through a request for proposal (RFP) released on July 19, 2021 with responses due on August 27, 2021. There were 21 attendees to the pre-proposal conference held on August 8, 2021, and a total of 9 responses to the RFP were received. A total of three contractors were awarded contracts by the lead state based on their scoring and their overall responsiveness through the RFP process.

Currently, there is only one statewide contract for vehicle replacement parts; this contract is with O'Reilly Auto Enterprises, LLC (Contract #8003227). This proposed contract through a NASPO participating addendum would provide a second contract for automotive parts with 40 additional retail locations throughout all 10 New Hampshire Counties, easily utilized by all State agencies in all geographic locations. This requested NASPO contract for automotive parts will offer discounts of 19.9% on average over the current pricing, as well as discounts in 5 additional categories which will provide supplementary coverage for the battery contract with Factory Motor Parts (Contract #8002760), filters contract with Route 11 Auto (Contract #8002715) and motor oil contracts with Dennison Lubricants and Safety Kleen (Contract #8002979 and Contract

#8003209). This 19.9% reduction in cost represents a potential cost savings of \$89,023.61 annually.

Historical spend research of the previous vehicle parts contracts indicate that \$1,197,474.99 was spent over the three-year term, with \$399,158.33 being spent on average annually. The NASPO master agreement term has just less than one year remaining and we anticipate spending to follow these historical trends. Following Department of Administrative Services market research through the Bureau of Purchase and Property, and a survey of vendors on price fluctuations in the last twelve months, it was determined that pricing has increased by approximately 10% overall.

Contract financials	
Previous contract term spend	\$ 1,197,474.99
Recommended price limitation	\$ 358,530.14

Based on the foregoing, I am respectfully recommending approval of the contract with Genuine Parts Company, Inc.

Respectfully submitted,



Charles M. Arlinghaus
Commissioner



Contract Price Comparison Example

Contract Description		Automotive Parts		Agency	Department of Administrative Services		
Agent Name		Jesse G. Wilcox		NASPO Mater Agreement	October 19, 2024		
Top 5 Most Common Part Categories - Examples from a 2017 Dodge Charger							
Typical Quantities purchased in a 1 year period	Contract	NASPO 7-21-99-41-02 (Genuine Parts Company dba NAPA)		O'Reilly 8003227	Route 11 auto parts 8003226	C&S Auto 8003241	Hahn DBA Carparts 8003225
	Counties Served	State Wide		State Wide	Merrimack, Belknap, Strafford	Coos and Grafton	Merrimack, Belknap, Strafford, Hillsborough, Rockingham
	Part Type	Category	Contract Price	Contract Price	Contract Price	Contract Price	Contract Price
164	Alternator	2. Alternators and Starters	\$222.31	\$287.32	\$288.88	\$316.86	\$191.80
46	Front Wheel Bearing	4. Bearings, Ball and Roller	\$85.81	\$55.49	\$100.99	\$79.19	\$167.90
634	Front Brake Rotor	6. Brakes	\$54.86	\$52.50	\$36.99	\$42.08	\$53.03
35	Radiator	12. Heating and Cooling (Engine)	\$136.06	\$161.94	\$176.39	\$173.00	\$94.22
242	Front Strut/Shock	16. Suspension and Steering	\$70.22	\$109.54	\$77.02	\$82.95	\$116.19
Top 5 Most Common Part Categories - Examples from a 2017 Ford F-250							
164	Alternator	2. Alternators and Starters	\$151.57	\$404.92	\$194.58	\$213.43	\$175.16
46	Front Wheel Bearing	4. Bearings, Ball and Roller	\$155.27	\$177.40	\$354.14	\$438.94	\$326.30
634	Front Brake Rotor	6. Brakes	\$84.47	\$104.50	\$101.69	\$122.49	\$89.54
35	Radiator	12. Heating and Cooling (Engine)	\$169.43	\$403.09	\$193.99	\$256.68	\$264.48
242	Front Strut/Shock	16. Suspension and Steering	\$41.61	\$64.66	\$49.18	\$47.93	\$32.59
Top 5 Categories Aggregate Totals			\$1,171.61	\$1,821.36	\$1,573.85	\$1,773.55	\$1,511.21
Extended Aggregate Totals			\$198,496.23	\$285,710.75	\$231,650.24	\$261,850.68	\$221,863.28
Cost Variance NASPO vs Current		Average	19.9%	30.53%	14.31%	24.19%	10.53%
Statewide Contract or Amendment				Yes			
Term of Contract				1 year			



Contract Price Comparison Example

Current Contract 8003227 Price Limitation (3 year term)	\$1,342,661.25		
Previous Contract Term Historical Spend (3 year term)	\$1,197,474.99		
Current Contract 8003227 (O'Reilly Auto Parts) Annual Spend	\$447,553.75		
Reccomend Price Limitation for this contract	\$358,530.14		
P-37 Checklist Complete	Yes		
D&B Report Attached	No		
Method of Payment (P-card/ACH)	P-card and ACH		
FOB Delivered	Yes		
Annual Cost Savings (\$/%)	\$89,023.61		19.9%
Special Notes:	<p>These 5 automotive part categories represent the most commonly replaced automotive wear parts, and although they are only 25% of the automotive replacement part categories in these contracts, those 5 categories account for approximately half (49.7%) of automotive replacement part spending, historically. The requested contract with Genuine Parts Company would represent a cost savings of \$89,023.61 annually by supplying automotive parts at 19.9% less on average over the current contracts.</p>		



Master Agreement #: 7-21-99-41-02
 Contractor: **GENUINE PARTS COMPANY DBA NAPA AUTO PARTS**
 Participating Entity: **STATE OF NEW HAMPSHIRE**

This Participating Addendum is entered into by Contractor and Participating Entity (collectively, the "Parties").

PARTICIPATING ENTITY

Name:	State of New Hampshire Department of Administrative Services
Address:	25 Capitol Street, Concord, NH 03301
Telephone:	603-271-3146
Fax:	603-271-2700
Email:	Jesse.G.Wilcox@das.nh.gov

1. Participating Entity Modifications and Additions to the Master Agreement

- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor.
- This Participating Addendum incorporates all terms and conditions of the Master Agreement as applied to the Participating Entity and Contractor, **subject to the following limitations, modifications, and additions:**

PARTICIPATING ADDENDUM

This Participating Addendum (the "Participating Addendum") is entered into by and between the STATE OF NEW HAMPSHIRE, acting by and through its Department of Administrative Services ("Participating State"), and GENUINE PARTS COMPANY, INC. DBA NAPA AUTO PARTS, a Georgia corporation with a principal place of business located at 2999 Wildwood Parkway, Atlanta, Georgia 30339 ("Contractor"). Participating State and Contractor are sometimes referred to herein singularly as a "Party" or collectively as the "Parties".

RECITALS

WHEREAS, the State of California (the "Lead State"), acting on behalf of member states of the NASPO ValuePoint Purchasing Program, and Contractor entered into the Cooperative Agreement (**Contract ID 7-21-99-41-02**) dated October 20, 2021 (the "Master Agreement"), wherein Contractor agreed to provide automotive parts and other services ancillary thereto to Participating Entities upon the terms and conditions set forth in said Mater Agreement;

WHEREAS, Participating State is a member of the NASPO ValuePoint Purchasing Program; and

WHEREAS, Participating State desires to participate in Contractor's offering the goods and services under the Master Agreement subject to the terms and conditions of this Participating Addendum;

NOW, THEREFORE, in consideration of the foregoing recitals, the receipt and sufficiency of which are hereby conclusively acknowledged, the Parties hereby agree as follows:

1. Scope. This Participating Addendum governs Participating State's participation in the Master Agreement by and between Contractor and Lead State. This Participating Addendum shall cover all of the Products and Services offered by Contractor to Participating State under the Master Agreement. The Parties agree that the terms and conditions of the Master Agreement shall be subject to the terms and conditions of this Participating Addendum.

2. Incorporation of Master Agreement. The terms and conditions of the Master Agreement are attached hereto as Schedule 1 and incorporated herein by reference. All undefined capitalized terms used herein shall have the same meanings assigned to them in the Master Agreement. Certain other capitalized terms are defined elsewhere within the text of this Participating Addendum and, throughout this Participating Addendum, those terms shall have the meanings respectively ascribed to them. In the event of any conflict or inconsistency between the terms and conditions of this Participating Addendum and any terms and conditions set forth in the Master Agreement, the terms and conditions of this Participating Addendum shall prevail.

3. Participation; Authorized Purchasers. The Products and Services available for purchase under the Master Agreement by way of this Participating Addendum may be ordered and purchased by all departments, divisions, or other executive agencies eligible to use statewide contracts within the State of New Hampshire (each, an "Authorized Purchaser"). Contractor shall not accept, and Participating State shall not be obligated to pay for, Orders from any person or entity that is not authorized by Participating State to order or purchase any of the Products and Services offered by Contractor under this Participating Addendum and the Master Agreement. All determinations of eligibility to participate in the Master Agreement through this Participating Addendum are solely within the authority of Participating State's Procurement Officer identified in Section 14(b) below.

4. Effective Date of Participating Addendum. Notwithstanding any terms and conditions in the Master Agreement to the contrary, this Participating Addendum is subject to the approval of the Governor and Executive Council of the State of New Hampshire, and Participating State shall not be bound by the terms and conditions of this Participating Addendum or the Master Agreement until the date of such approval (the "Participating Addendum Effective Date").

5. Term. The term of this Participating Addendum shall begin on the Participating Addendum Effective Date and end on October 19, 2024, unless terminated earlier in accordance with the terms and conditions of the Master Agreement or this Participating Addendum. In the event that Lead State and Contractor agree to extend the term of the Master Agreement, then Participating State shall have the option to extend the term of this Participating Addendum for an additional term not to exceed the extended term of the Master Agreement.

6. Funds Available and Authorized; Non-Appropriation. Participating State's obligations under this Participating Addendum and the Master Agreement are subject to the availability of sufficient legislative appropriations allotments, or other expenditure authority and, if Participating State is expending federal funds, the availability of such federal funds. In the event of the reduction, elimination, or modification of the appropriation or availability of funding for this Participating Addendum, in whole or in part, Participating State shall have the right to withhold payment until such funds become available, if ever, and shall have the right to reduce or terminate this Participating Addendum immediately upon written notice to Contractor.

7. Orders. Any Order placed by Participating State for the Products and Services available from this Master Agreement shall be deemed to be a sale under (and governed by the prices and other terms and conditions) of the Master Agreement, subject to the terms and conditions of this Participating Addendum, unless the parties to the order agree in writing that another contract or agreement applies to such order.

8. Non-Exclusivity. This Participating Addendum is not exclusive, and Participating State may acquire the Products and Services available under the Master Agreement and this Participating Addendum from other third parties.

9. Independent Contractor. Contractor shall act at all times as an independent contractor, and not as an agent or employee of the Participating State, in the performance of its obligations under this Participating Addendum and the Master Agreement. Contractor shall not have any authority to legally bind Participating State. Neither Party shall make any statements, representations, or commitments of any kind or to take any action binding on the other except as expressly provided for herein or authorized in writing by the Party to be bound.

10. Invoice Requirements.

a. To request payment for each Order made hereunder, Contractor shall submit an original invoice to the office of the Authorized Purchaser that submitted the Order. The contents of the invoice must include, at a minimum, the following:

- i. Contractor's name and address;
- ii. Contractor's Federal Employer Identification Number;
- iii. Contractor's payment address;
- iv. The Order number; and

v. A description of the Products and Services that Contractor delivered with, as applicable, the date, serial number, quantity, unit price, and total price of the Products and Services for which payment is sought.

b. If an invoice submitted by Contractor does not meet the requirements of this Section 10, then the Authorized Purchaser will send a written notice to Contractor that describes the defect or impropriety of the invoice and any additional information that Contractor needs to correct the invoice.

c. Participating State may request Contractor for additional documentation to support payment of any invoice. Contractor shall respond to any such requests within ten (10) calendar days of receipt. Participating State's payment obligations are conditioned upon receipt of an invoice that complies with this Section 10 and includes any supporting documentation as may be requested by Participating State.

d. Participating State's payment will not be due until thirty (30) calendar days after the latter of (i) receipt of an invoice that complies with this Section 10, the completion of the Services, or the delivery of the Products.

11. Termination; Default and Remedies.

a. Termination for Convenience. Participating State may terminate this Participating Addendum, including any unfulfilled Orders made hereunder, in whole or in part, at any time without cause by providing Contractor with thirty (30) calendar days' advance written notice.

b. Termination for Cause. If Contractor fails to perform under this Participating Addendum, including any Orders made hereunder, or fails to comply with any of the terms or conditions of this Participating Addendum, Participating State may, in its sole and absolute discretion, immediately terminate all or any part of this Participating Addendum, including any unfulfilled Orders made hereunder.

c. Other Remedies Preserved. Termination is not Participating State's exclusive remedy but will be in addition to any other rights and remedies available in law or in equity under this Participating Addendum and the Master Agreement. The exercise of any remedies hereunder will not constitute a termination of this Participating Addendum unless Participating State notifies Contractor in writing prior to the exercise of such remedy. Contractor shall also be liable for all costs and expenses, including attorney's fees and court costs, incurred by Participating State in enforcing the terms and conditions of this Participating Addendum.

d. No Liability Upon Termination. If this Participating Addendum is terminated for any reason, Participating State shall not be liable to Contractor for any damages arising from or related to the termination. In the event that Participating State terminates this Participating Addendum, Participating State shall not be liable to Contractor for any reason, except for the payment of the Products and Services ordered hereunder that are performed or delivered and accepted, as the case may be, in accordance with all terms and conditions of this Participating Addendum.

12. Access to Records. Contractor will maintain all fiscal records relating to this Participating Addendum in accordance with generally accepted accounting principles and will maintain all other records relating to this Participating Addendum in such a manner as to clearly document Contractor's performance hereunder. Participating State shall have access to such fiscal books and records of Contractor which relate to this Participating Addendum to perform examination and audits and to make copies of the same. Contractor will retain and keep accessible all such fiscal books and records writings for a minimum of six (6) years, or such longer period as may be required by applicable law following final payment and termination of this Participating Addendum, or until the conclusion of any audit, controversy, or litigation arising out of or related to this Participating Addendum, whichever date is later.

13. Public Information.

a. Application of Right-to-Know Law. Participating State's obligations of confidentiality, if any, under the Master Agreement and this Participating Addendum are subject to disclosure pursuant to the New Hampshire Right-to-Know Law codified at RSA 91-A. Notwithstanding the terms and conditions set forth in Section 13(b) below, Participating State shall have the sole and final authority as to whether the disclosure of any information relating to the transactions contemplated in this Participating Addendum or the Master Agreement is required under RSA 91-A.

b. Contractor's Designation of Trade Secrets and Confidential Information. If Contractor considers any portion of the materials disclosed to Participating State to be confidential or protected as a trade secret, Contractor must clearly designate that portion of the material as "CONFIDENTIAL," "TRADE SECRET," or any other language of similar import when submitted to Participating State. In the event that Participating State receives any request made pursuant to RSA 91-A that seeks the disclosure of materials designated by Contractor as being confidential or protected as a trade secret, and Participating State determines that the provisions of 91-A require the disclosure of the materials so designated, Participating State will notify Contractor of the following:

- i. The scope of the information sought through the request;



- ii. A description of the materials that Participating State will disclose in response to the request;
- iii. A description of the materials, if any, that are exempt from disclosure under the Right-to-Know Law pursuant to RSA 91-A:5 or any other applicable exception or exemption to the Right-to-Know Law; and
- iv. The date upon which Participating State will disclose the materials to the RSA 91-A requestor.

If Participating State concludes that the disclosure of materials designated by Contractor as being confidential or protected as a trade secret is required under RSA 91-A, Contractor shall be responsible for taking whatever appropriate legal action it deems necessary to prevent such disclosure to the RSA 91-A requestor. Notwithstanding the preceding sentence, any and all claims against Participating State pursuant to RSA 91-A are subject to the terms and conditions set forth in Sections 20 through 22 of this Participating Addendum to the fullest extent permitted by law.

14. **Primary Contacts; Notice.** The Parties' respective primary points of contact for this Participating Addendum are the individuals named below as follows:

a. **Contractor.**

Name:	Don Lachance
Address:	2999 Wildwood Parkway Atlanta Ga. 30339
Telephone:	404-386-4157
Email:	don_lachance@genpt.com

b. **Participating State.**

Name:	Jesse G. Wilcox
Address:	25 Capital Street, RM 102, Concord, NH 03301
Telephone:	(603) 271-3146
Email:	Jesse.G.Wilcox@das.nh.gov

Except as otherwise expressly provided by law, any and all notices or other communications required or permitted to be given pursuant to this Participating Addendum shall be in writing and shall be deemed to be delivered when sent by U.S. mail, postage prepaid, or by email to each Parties' respective primary contracts identified above. Each Party may change its respective primary contacts by providing written notice of such change to the other Party in the manner specified by this Section 14.

15. **Usage Reporting.** Contractor shall submit quarterly usage reports for analysis by Participating State's Procurement Officer identified in Section 14(b) above for each quarter during the term of this Participating Addendum as follows:



Reporting Period	Due Date
January 1 to March 31	April 30
April 1 to June 30	July 31
July 1 to September 30	October 31
October 1 to December 31	January 31

Each quarterly usage report shall be submitted electronically in a “.xls” or “CSV” format and shall be organized by Authorized Purchaser. In addition, each quarterly usage report shall include, at a minimum, the following information:

- a. Participating State’s number assigned to this Participating Addendum, if any, and the number assigned to the Master Agreement;
- b. The names of all Authorized Purchasers that placed an Order under this Participating Addendum during the reporting period;
- c. A description of the Products and Services purchased by each Authorized Purchaser as well as the total price for each Order;
- d. The total price of all Orders during the reporting period; and
- e. Any other information as Participating State may reasonably request.

16. Click Through Terms and Conditions. If either Party uses a web based ordering system, an electronic purchase order system, an electronic order acknowledgement, a form of an electronic acceptance, or any software based ordering system with respect to any Products or Services ordered hereunder (each an “Electronic Ordering System”), the Parties acknowledge and agree that an Electronic Ordering System is for ease of administration only, and Contractor is hereby given notice that the persons using Electronic Ordering Systems on behalf of Participating State do not have any actual or apparent authority to create legally binding obligations that vary from the terms and conditions of this Participating Addendum. Accordingly, where Participating State is required to “click through,” otherwise accept, or be made subject to any terms and conditions in using an Electronic Ordering Systems, any such terms and conditions are deemed void upon presentation. Additionally, where Participating State is required to accept or be made subject to any terms and conditions in accessing or employing any Products or Services, those terms and conditions will also be void.

17. Insurance. Contractor shall, at its own expense, obtain and continuously maintain in full force throughout the term of this Participating Addendum, the following types of insurance coverage:

- a. Commercial general liability insurance against all claims of bodily injury, death, or property damage in an amount of not less than One-Million and 00/100 Dollars (\$1,000,000.00) per occurrence and Two-Million and 00/100 Dollars (\$2,000,000.00) in the aggregate; and
- b. Workers’ compensation insurance as required by applicable workers’ compensation laws for persons performing work under this Participating Addendum with limits not less than Five-Hundred Thousand and 00/100 Dollars (\$500,000.00) per accident.

Contractor shall provide Participating State with certificates of insurance for all insurance required under this Section 17 before furnishing any Products or Services pursuant to the Master Agreement and this Participating Addendum.

18. Equal Employment Opportunity. Contractor shall comply with all federal, state, and local laws, regulations, executive orders, and ordinances applicable to Contractor, this Participating Addendum, and any Orders made under this Participating Addendum, as may be modified or adopted from time to time. Without limiting the generality of the foregoing, Contractor expressly agrees to comply with the following laws, regulations, and executive orders to the extent they are applicable to this Participating Addendum and the Orders made hereunder:

- a. Titles VI and VII of the Civil Rights Act of 1964, as amended;
- b. Sections 503 and 504 of the Rehabilitation Act of 1973, as amended;
- c. The Americans with Disabilities Act of 1990, as amended;
- d. Executive Order 11246, as amended;
- e. The Age Discrimination in Employment Act of 1967, as amended, and the Age Discrimination Act of 1975, as amended;
- f. The New Hampshire Law Against Discrimination, RSA 354-A, as amended;
- g. All regulations and administrative rules established pursuant to the foregoing laws; and
- h. All other applicable requirements of federal and state civil rights and rehabilitation statutes, rules, and regulations.

19. Participating State's Set-Off Rights. Notwithstanding any terms and conditions contained herein to the contrary, Participating State shall have and retain all of its common law, equitable, and statutory rights of set-off. These set-off rights shall include, but not be limited to, Participating State's option to withhold any monies due to Contractor under this Participating Addendum up to any amounts due and owing to Participating State with regard to this Participating Addendum, or any other contracts or agreements between Contractor and Participating State, plus any amounts due and owing to Participating State for any other reason, including, without limitation, tax delinquencies, fee delinquencies, or monetary penalties relative thereto.

20. Indemnification. Notwithstanding any terms and conditions set forth herein to the contrary, Contractor shall indemnify and hold Participating State harmless from and against, and to reimburse Participating State for, any and all liabilities, penalties, assessments, judgments, claims, demands, debts, obligations, fines, damages, losses, fees and expenses, including attorney's fees and litigations costs, suffered or incurred by Participating State arising from any acts or omissions of Contractor in the performance of its obligations under this Participating Addendum. The terms and conditions of this Section 20 shall survive the expiration or termination of this Participating Addendum.

21. Limitation of Liability. To the fullest extent permitted by law, the Parties agree that in no event will Participating State, together with its officials, agents, and employees, be liable for any indirect, incidental, special,

or consequential damages, including, without limitation, lost profits, even if Participating State had been advised, knew, or should have known of the possibility of such damages.

22. Sovereign Immunity Preserved. Notwithstanding any terms and conditions set forth herein to the contrary, this Participating Addendum shall not be construed as a waiver of Participating State's sovereign immunity, which is hereby reserved by Participating State. The terms and conditions of this Section 22 shall survive the expiration or termination of this Participating Addendum.

23. Successors and Assigns. The promises and covenants herein contained shall bind, and the benefits and advantages shall inure to, except as herein specifically limited, the respective successors and assigns of the Parties.

24. Governing Law. The Parties acknowledge and agree that this Participating Addendum and the rights, obligations, and liabilities of the Parties hereunder, including matters of construction, validity, and performance, shall be exclusively governed by the laws of the State of New Hampshire without regard to any choice of law or conflict of law, rules, or provisions (whether of the State of New Hampshire or any other jurisdiction) that would cause the application of the laws of any jurisdiction other than the State of New Hampshire.

25. Consent to Jurisdiction and Venue. The Parties hereby irrevocably and unconditionally (a) submit to exclusive personal jurisdiction in the Superior Courts of the State of New Hampshire over any suit, action, or proceeding arising out of or relating to this Participating Addendum, and (b) waive any and all personal rights under the laws of any other state to object to jurisdiction within the Superior Courts of the State of New Hampshire. The Parties agree that the only proper venue for any suit, action, or proceeding arising out of or related to this Participating Addendum shall be in the state courts of the State of New Hampshire.

26. Severability. If any term or condition of this Participating Addendum or the application thereof to any party or circumstance shall to any extent be invalid or unenforceable, the remainder of this Participating Addendum, or the application of such term or condition to the Parties or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each term and condition of this Participating Addendum shall be valid and enforceable to the maximum extent permitted by law.

27. Waiver. No delay on the part of Participating State in the exercise of any right or remedy hereunder shall operate as a waiver thereof, and no single or partial exercise by Participating State of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any amendment, modification, or waiver of any of the provisions of this Participating Addendum be binding upon Participating State except as expressly set forth in a writing duly signed and delivered by an authorized agent of Participating State. No action of Participating State permitted hereunder shall in any way affect or impair the rights of Participating State or the obligations of Contractor under this Participating Addendum.

28. Merger. This Participating Addendum, together with the Master Agreement, is intended by the Parties as the final, complete, and exclusive understanding of the Parties hereto. All prior or contemporaneous promises, agreements, and understandings, whether oral or written, are deemed to be superseded by this Participating Addendum, and no Party is relying on any promise, agreement, or understanding not set forth in this Participating Addendum. This Participating Addendum may not be amended or modified except by a written instrument describing such amendment or modification executed by the Parties hereto.

29. Construction. The recitals set forth at the outset of this Participating Addendum are a part of this Participating Addendum, as fully as if set forth in their entirety in the body hereof. The captions or headings in this Participating Addendum are for ease of reference only, and no caption or heading shall affect in any way the interpretation, meaning, or construction of this Participating Addendum. Wherever used, the singular shall include the plural, the plural the singular, and the use of any gender or the neuter shall be applicable to all genders and the neuter. References to a person or entity are, unless the context otherwise requires, also to its owners, members, managers, shareholders, officers, directors, affiliates, heirs, executors, legal representatives, agents, successors, and assigns as applicable. As used in this Participating Addendum, the terms "include," "includes," and "including" shall be deemed to be followed by "without limitation" whether or not they are in fact followed by such word or words of similar import. The words "all" and "each" shall be construed as all and each, and the words "or" and "and" shall be construed either disjunctively or conjunctively, as the context may require.

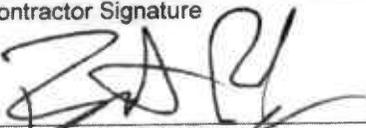
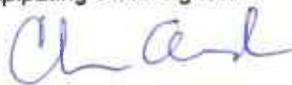
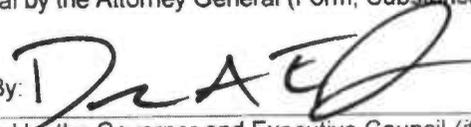
30. Counterparts; Facsimile and Electronic Signatures. This Participating Addendum may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same Participating Addendum. A facsimile or portable document format (PDF) signature on this Participating Addendum shall be equivalent to, and have the same force and effect as, an original signature. In accordance with the New Hampshire Uniform Electronic Transactions Act, RSA 294-E, the Parties hereby agree that this Participating Addendum may be signed electronically, including any exhibits, schedules, addenda, or other attachments referenced herein.

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SIGNATURE PAGE FOLLOWS

NASPO ValuePoint
PARTICIPATING ADDENDUM
AUTOMOTIVE PARTS
 Led by the State of California



IN WITNESS WHEREOF, the parties have executed this Participating Addendum as of the date their respective signatures parties below.

Contracting Officer for Participating State Jesse G. Wilcox, Purchasing Agent	Participating State Telephone Number 603-271-3146
Contractor Signature  Date: 9/26/23	Name and Title of Contractor Signatory Bret Robyck Executive Vice President Sales
Participating State Signature  Date: 11/7/23	Name and Title of Participating State Signatory Charles Arlinghaus Commissioner
Approval by the N.H. Department of Administration, Division of Personnel (if applicable)	
By:	Director, On:
Approval by the Attorney General (Form, Substance and Execution) (if applicable)	
By: 	On: 11/20/23
Approval by the Governor and Executive Council (if applicable)	
G&C Item number:	G&C Meeting Date:

[Please email fully executed PDF copy of this document to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases]

State of New Hampshire

Department of State

CERTIFICATE

I, David M. Scanlan, Secretary of State of the State of New Hampshire, do hereby certify that GENUINE PARTS COMPANY is a Georgia Profit Corporation registered to do business in New Hampshire as GENUINE PARTS COMPANY, INC. on October 08, 1990. I further certify that all fees and documents required by the Secretary of State's office have been received and is in good standing as far as this office is concerned.

Business ID: 152035

Certificate Number: 0006330706



IN TESTIMONY WHEREOF,

I hereto set my hand and cause to be affixed
the Seal of the State of New Hampshire,
this 6th day of October A.D. 2023.

A handwritten signature in black ink, appearing to read "David M. Scanlan".

David M. Scanlan
Secretary of State

Certificate of Authority # 3

(Corporation, Non-Profit Corporation)

Certificate of Authority

This document hereby certifies that Bret Robyck EVP Sales is an Officer of Genuine Parts Company That is authorized to enter into contract and bind the Corporation for contractual obligations with the State of New Hampshire.

I further certify that it is understood that the State of New Hampshire will rely on this certificate as evidence that the person(s) listed above currently occupy the position(s) indicated and that they have full authority to bind the corporation. To the extent that there are any limits on the authority of any listed individual to bind the corporation in contracts with the State of New Hampshire, all such limitations are expressly stated herein. This authority shall remain valid for thirty (30) days from the date of this certificate.

DATED: 10/6/2023

ATTEST:


(Name & Title)

Name: Jennifer Ellis - Vice President & Corporate Secretary





CERTIFICATE OF LIABILITY INSURANCE

DATE(MM/DD/YYYY)
09/27/2023

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Aon Risk Services South, Inc. Atlanta GA Office 3550 Lenox Road NE Suite 1700 Atlanta GA 30326 USA	CONTACT NAME: PHONE (A/C. No. Ext): 866-283-7122 FAX (A/C. No.): 800-363-0105	
	E-MAIL ADDRESS:	
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURED GENUINE PARTS COMPANY & SUBSIDIARIES - NAPA Auto Parts, Motion Industries, National Automotive Parts Association LLC, Balkamp, Rayloc, AST Bearings, et al 2999 wildwood Parkway Atlanta GA 30339 USA	INSURER A:	Safety National Casualty Corp 15105
	INSURER B:	Old Republic Insurance Company 24147
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES **CERTIFICATE NUMBER:** 570101807572 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, CONDITIONS AND EXCLUSIONS OF SUCH POLICIES.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	Limits shown are as requested	
							LIMITS	
B	<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:			MWZY31404823	09/01/2023	09/01/2024	EACH OCCURRENCE	\$2,000,000
							DAMAGE TO RENTED PREMISES (Ea occurrence)	\$2,000,000
							MED EXP (Any one person)	\$5,000
							PERSONAL & ADV INJURY	\$2,000,000
							GENERAL AGGREGATE	\$4,000,000
							PRODUCTS - COMPI/OP AGG	\$4,000,000
B	<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY <input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> OCCUR <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> DED <input type="checkbox"/> RETENTION			MWTB-314047-23	09/01/2023	09/01/2024	COMBINED SINGLE LIMIT (Ea accident)	\$5,000,000
							BODILY INJURY (Per person)	
							BODILY INJURY (Per accident)	
							PROPERTY DAMAGE (Per accident)	
A	<input checked="" type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY PROPRIETOR / PARTNER / EXECUTIVE OFFICER/MEMBER (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below			LDS4049768 AOS SP4067845 Excess WC - OH SIR applies per policy terms & conditions	01/01/2023	01/01/2024	<input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTHER	
A					01/01/2023	01/01/2024	E.L. EACH ACCIDENT	\$1,000,000
							E.L. DISEASE-EA EMPLOYEE	\$1,000,000
							E.L. DISEASE-POLICY LIMIT	\$1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

RE: NASPO Master Agreement 7-21-99-41-02

CERTIFICATE HOLDER

CANCELLATION

State of New Hampshire
 Administrative Services
 Bureau of Purchase and Property
 25 Capitol Street, Room 102
 Concord NH 03301 USA

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Aon Risk Services South Inc

Holder Identifier :

570101807572

Certificate No :



STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER 7-21-99-41-02	PURCHASING AUTHORITY NUMBER (If Applicable)
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1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

Department of General Services

CONTRACTOR NAME

Genuine Parts Company, dba NAPA Auto Parts

2. The term of this Agreement is:

START DATE

October 20, 2021, or upon DGS approval of contract, whichever is later.

THROUGH END DATE

October 19, 2024 with the option to extend one (1) additional two (2) year period

3. The maximum amount of this Agreement is:

\$0.00

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Scope of Work	15
Exhibit B	Category Discounts	1
Exhibit C	Lead State General Provisions	1
+ - Exhibit D	NASPO ValuePoint Master Agreement Terms	22

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dgs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Genuine Parts Company, dba NAPA Auto Parts

CONTRACTOR BUSINESS ADDRESS 2999 Willdwood Parkway	CITY Atlanta	STATE GA	ZIP 30339
PRINTED NAME OF PERSON SIGNING Jett Kuntz	TITLE Vice President Fleet/Government/IBS		
CONTRACTOR AUTHORIZED SIGNATURE Jett Kuntz Digitally signed by Jett Kuntz Date: 2021.10.20 16:18:14 -06'00'	DATE SIGNED 10/21/2021		

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of General Services, Procurement Division

CONTRACTING AGENCY ADDRESS 707 3rd Street	CITY West Sacramento	STATE CA	ZIP 95605
PRINTED NAME OF PERSON SIGNING Stephanne Lim	TITLE MAU2 Supervisor		
CONTRACTING AGENCY AUTHORIZED SIGNATURE stephanne lim Digitally signed by stephanne lim Date: 2021.10.21 10:37:56 -07'00'	DATE SIGNED 10/21/2021		

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL	EXEMPTION (If Applicable)
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EXHIBIT A: SCOPE OF WORK

1. AGREEMENT OVERVIEW

This Scope of Work reflects the products and supplies to be provided by Genuine Parts Company dba NAPA Auto Parts hereinafter referred to as the "Contractor," for the State of California hereinafter referred to as the "Lead State" and all other Participating States and Entities, for the Automotive Parts Master Agreement ("Agreement" or "Master Agreement").

Contractor shall permit State of California agencies, California local governmental agencies and NASPO ValuePoint Participating States and Entities to participate under this Master Agreement. Subject to the approval of the Contractor, any Canadian provincial government or provincially funded entity in Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta, Northwest Territories, Nunavut, Yukon, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

Contractor will provide the entire portfolio of quality Automotive Parts to the Lead State, Participating States and Entities and local governmental agencies in a timely and efficient manner. Contractor will be the primary point of contact for data collection, reporting, and distribution of Automotive Parts to the Lead State and all other Participating States and Entities.

2. AGREEMENT TERM

The term of this Agreement is for a three (3) year period from the date of Master Agreement execution with the option to extend one (1) additional two (2) year period at the discretion of the Lead State. Extensions will be made by amendment to the Agreement at the same contracted discounts, terms and conditions.

3. RESPONSIBILITIES

- A. Contractor shall meet all requirements identified in this Agreement.
- B. Contractor will provide a Contract Manager in accordance with Exhibit A, Section 6.1.3 that will work with the Lead State Contract Administrator to fully implement and manage the Agreement.
- C. Contractor will work closely with subcontractors (if applicable) to fully implement and manage this Agreement in accordance with Exhibit A, Section 6.1.1.
- D. Contractor shall make available to the Lead State, technically competent personnel to accomplish the tasks and deliverables for the implementation and management of the Agreement.

- E. Contractor shall promptly notify the Lead State Contract Administrator in writing of any unresolved issues or problems related to the Agreement that have been outstanding for more than five (5) business days.

4. REQUIREMENTS

A. Available Product Categories

Contractor shall provide products for Automotive Parts categories at the discount provided in Exhibit B, Category Discounts. Products outside the scope of categories listed in Exhibit B may not be purchased from the Master Agreement.

B. Electronic Catalog

Item	Description
1.	<p>Automotive Parts Electronic Catalog</p> <p>Contractor shall develop and maintain an electronic catalog for use by Purchasing Entities. Contractor's electronic catalog must be separate from the Contractor's commercially available (i.e., public) online catalog and shall contain only category items and pricing as specified in the awarded Master Agreement. No other items or pricing may be shown in the electronic catalog without written approval from the Lead State Contract Administrator.</p>
2.	<p>Electronic Catalog/Contract Website Contents</p> <p>The Lead State Contract Administrator will review and determine acceptability of the electronic catalog format and data. The Electronic Catalog shall contain the following data elements at minimum:</p> <ul style="list-style-type: none"> • Item descriptions • Contractor's stock keeping number (SKU) • Unit of measure (UOM) • Quantity in the UOM • List Price/MSRP • Master Agreement price • Quote generation (if applicable) • Publicly available OEM price lists (current and archives) <p>Within 30 calendar days of notice of award, Contractor will be required to provide the Electronic Catalog for Lead State Contract Administrator approval.</p>
3.	<p>Availability</p> <p>The Electronic Catalog shall be available twenty-four (24) hours per day, seven (7) days per week, except for regularly scheduled maintenance</p>

Item	Description
	times. Contractor shall not have any catalog viewing access restrictions for Participating States or Entities.

C. Pricing

Item	Description
1.	<p>Category Discounts</p> <p>Master Agreement employs a discount-off Manufacturer Suggested Retail Price (MSRP) structure. Category discounts outlined in Exhibit B, Category Discounts, will remain firm for the entire term of the agreement, including extension periods. However, Contractors may offer lower pricing on a per order basis to Purchasing Entities.</p> <p>In the event a product falls into two or more categories the highest category discount will be applied.</p>
2.	<p>Promotions</p> <p>Contractor may offer promotional discounts, including but not limited to statewide promotional discounts, customer location specific discounts, bulk discounts, or spot discounts.</p> <p>During special pricing promotions, the Contractor shall offer Participating Entities the promotional pricing or the category discount percentage off MSRP, whichever is lower.</p> <p>Promotional pricing shall not be cause for a permanent change in pricing. Promotional items shall come with all benefits of the Master Agreement terms and conditions and shall include all provisions such as warranty and delivery.</p>

D. Retail Sales Establishments

Item	Description
1.	<p>Retail Sales Establishments</p> <p>Retail Sales Establishments are defined as any facilities that the Contractor uses on a regular basis to warehouse and/or sell merchandise, and at which the Contractor conducts regular business transactions at either the retail or wholesale level. Contractor facility should provide:</p> <ul style="list-style-type: none"> • Walk-in and will-call order system during regular work hours. • Customer service associate to support walk-in and will-call order system. • Itemized sales receipts for all walk-in and will-call transactions.

Item	Description
	<ul style="list-style-type: none"> • Availability of delivery. • Acceptance of Purchasing Card. <p>These facilities shall be operated in accordance with state law and comply with all zoning requirements as implemented by local, county or state governments. Examples of unacceptable retail sales establishments include houses, garages, or storage rental facilities.</p> <p>Contractor shall provide a list of authorized retail sales establishment locations to be used on this Master Agreement to the Lead State within 15 calendar days of notice of award.</p> <p>If Contractor is offering Retail Sales Establishments, Contractor shall ensure state agencies, local government agencies and other Participating Entities will receive Master Agreement pricing when purchasing items through Retail Sales Establishments.</p>

E. Ordering

Item	Description
1.	<p>Ordering Methods</p> <p>Contractor shall accept orders through the following methods:</p> <ul style="list-style-type: none"> • Electronic (email) – An email address to be used by Purchasing Entities for placing orders must be in place before the commencement of this Master Agreement. • Facsimile – A toll-free facsimile number to be used by Purchasing Entities for placing orders must be in place before the commencement of this Master Agreement. Facsimile orders must be accepted between the hours of 8:00 AM and 5:00 PM, Monday through Friday in the time zone the order is placed. • U.S. Mail – Contractor must have the capability to receive orders by mail in place before the commencement of this Master Agreement. • Over-the-counter/Walk-In – Contractor shall provide over-the-counter order and delivery at all commercial locations. See Exhibit A, Section 6.D (Retail Sales Establishments). • Online (internet) – Contractor's Electronic Catalog website to be used by Purchasing Entities for placing orders must be in

Item	Description
	<p>place before the commencement of this Master Agreement. See Exhibit A, Section 6.B (Electronic Catalog).</p> <p>Prior to contract award, Contractor shall provide the ordering information within five (5) business days of the Lead State's request.</p>
2.	<p>Purchase Execution</p> <p>California state agencies must submit orders on a Purchasing Authority Purchase Order (Std. 65) or using the FISCAL Purchase Order process in accordance with posted User Instructions.</p> <p>Local government agencies and other Purchasing Entities may use their own approved Purchase Order document process as addressed in their Participating Addendum.</p> <p>Contractor shall not accept purchase documents from Purchasing Entities that are incomplete or contain items outside the scope of the Master Agreement.</p>
3.	<p>Minimum Order (M)</p> <p>There is no minimum order.</p>
4.	<p>Order Acknowledgement</p> <p>The Contractor must provide Purchasing Entities with an order receipt acknowledgment via e-mail/facsimile within one (1) business day after receipt of an order. The acknowledgement will include:</p> <ul style="list-style-type: none"> • Purchasing Entity Name • Purchase Order Number • Description of Goods / SKUs • Total Cost • Anticipated Delivery Date • Identification of any Out of Stock/Discontinued Items
5.	<p>Out-of-Stock Remedy</p> <p>Upon receipt of order acknowledgment identifying out of stock items, the Purchasing Entity shall have the following options:</p> <ul style="list-style-type: none"> • Request back order • Cancel the item from the order <p>Upon request, Contractor shall provide updates on back ordered items to the Purchasing Entity. Contractor is not permitted to make</p>

Item	Description
	substitutions or cancellations without authorization from the Purchasing Entity.
6.	<p>Core Exchange/Charges</p> <p>All parts supplied which require core exchange shall be monitored by the Contractor to ensure proper cores are returned. Core credit is to be issued the same day as received. Any core that is not usable or not returned shall be billed at the core price listed in the manufacturer's price sheet for that particular part.</p>
7.	<p>Remanufactured Parts</p> <p>Contractor may provide remanufactured parts when new parts are not available with authorization from the Purchasing Entity. Used, previously installed or shop-worn parts shall not be accepted.</p>

F. Delivery

Item	Description
1.	<p>Delivery Locations</p> <p>Deliveries are to be made to the Purchasing Entities' location specified on the individual order, which may include, but not be limited to inside buildings, high-rise office buildings, and receiving docks.</p>
2.	<p>Delivery Schedule</p> <p>Delivery of ordered product shall be completed within two (2) business days after receipt of an order, unless otherwise agreed to by the Purchasing Entity.</p> <p>Since receiving hours for each Purchasing Entity will vary by facility, it will be the Contractor's responsibility to check with each facility for their specific receiving hours before delivery occurs.</p> <p>Contractor must notify the Purchasing Entity within 12 hours of scheduled delivery time, if delivery cannot be made within the time frame specified on the order.</p>
3.	<p>Delivery from Retail Sales Establishments</p> <p>Delivery of standard in-stock items to locations within five (5) miles from company's retail business establishment shall be accomplished within 45 minutes. Delivery outside the five (5) mile range will be accomplished by a scheduled delivery.</p>

Item	Description
4.	<p>Security Requirements for Institutions</p> <p>Deliveries may be made to locations inside secure institutional grounds (such as state prisons) that require prior clearances to be made for delivery drivers.</p> <p>Contractor will be responsible for contacting the secure location for security clearance procedures, hours of operation for deliveries and service, dress code, and other rules of delivery. These security clearance procedures may vary from facility to facility.</p> <p>Deliveries that are delayed due to drivers not being cleared to enter institutional grounds may cause the contractor to be declared in default of contract requirements.</p>
5.	<p>Free on Board (F.O.B.) Destination (Shipping Terms)</p> <p>All prices offered shall be F.O.B. destination, freight prepaid by the Contractor, to the Purchasing Entity's final receiving point. Responsibility and liability for loss or damage for all orders shall remain with the Contractor until final inspection and acceptance, when all responsibility shall pass to the ordering organization, except the responsibility for latent defects, fraud, and the warranty obligations.</p> <p>All emergency or rush deliveries that require special shipping and handling should be at the ordering entities expense, with prior approval from the Purchasing Entity. Emergency or rush shipping charges shall be added to an invoice as a separate line item. In the event an emergency or rush delivery is required as the result of a Contractor's error; all shipping cost shall be paid by the Contractor.</p>
6.	<p>Manufacturer Warranty</p> <p>Contractor must honor all manufacturers' warranties and guarantees on all products offered as part of the Master Agreement. If a product warranty extends beyond the term of the Master Agreement, the Contractor must agree to provide warranty services throughout the life of the warranty.</p> <p>These parts must be warranted to be free of defective parts and workmanship, provided they are properly installed on the vehicle for which they were intended, for the time and mileage shown in the product literature or catalog.</p> <p>Statement of warranty is to be provided by Contractor with items delivered under this Master Agreement.</p> <p>For all items ordered, warranty begins on the date of delivery.</p>

Item	Description
7.	<p data-bbox="383 310 584 346">Return Policy</p> <p data-bbox="383 368 1367 474">Items purchased under this Master Agreement may be returned at no cost for a full refund if item is unused, in its original packaging and within thirty (30) calendar days of delivery.</p> <p data-bbox="383 502 1347 608">All returns shall be picked up within seven (7) business days of notification. Notification is defined as notice in writing, by facsimile or e-mail.</p>
8.	<p data-bbox="383 629 574 666">Credit Policy</p> <p data-bbox="383 687 1295 719">The Contractor shall offer a full credit/refund for the following items:</p> <ul data-bbox="441 751 1159 874" style="list-style-type: none"><li data-bbox="441 751 782 783">• Items shipped in error<li data-bbox="441 793 961 825">• Defective or freight-damaged items<li data-bbox="441 836 1159 874">• Items returned within 30 calendar days of delivery <p data-bbox="383 921 1302 985">In all cases, the Purchasing Entity shall have the option of taking an exchange, receiving a credit, or receiving a refund.</p> <p data-bbox="383 1027 1370 1166">The Contractor will be responsible for the credit/refund or replacement of all products, including those covered by manufacturer warranties as stated in Exhibit A, Section 6.F.6, Warranty. Contractor cannot require the Purchasing Entity to deal directly with the manufacturer.</p>
9.	<p data-bbox="383 1195 779 1232">Product Recall Procedures</p> <p data-bbox="383 1253 1383 1455">Contractor shall provide recall notification, regardless of level, in writing to the Lead State Contract Administrator and each applicable Purchasing Entity through the most expedient method possible. The notices, at a minimum, shall include a complete product description and/or identification, contract number, delivery order number and disposition instructions.</p> <p data-bbox="383 1481 1341 1619">Contractor agrees to use commercially reasonable efforts in identifying the applicable manufacturer in order that the Lead State and any Participating Entities or Purchasing Entities may work with such manufacturer to handle any applicable recall issues.</p>

G. Invoicing and Payment

Item	Description
1.	<p>Invoices</p> <p>Invoices shall be submitted to the Purchasing Entity within seven (7) calendar days from date of delivery. Invoices should include the following at a minimum:</p> <ul style="list-style-type: none"> • Agency Order Number (Purchase Order Number) • Purchasing Entity Name • Delivery address of the order • Product(s) description • Manufacturer's product(s) number(s) • Quantities of merchandise issued • Price(s) per unit(s) and extended price • Date ordered • Date delivered • Listing of returns or back ordered items • Discounts (i.e. Cash Discounts, Prompt Payment) • Totals for each order. Each invoice shall have a total for all orders, a total for all credits, and amount due from each agency • Any other mutually agreed upon requirements
2.	<p>Payment</p> <p>California state agencies and local government agencies may pay by check, electronic funds transfer, or with the State of California purchase card (CAL-Card). Payments are to be made in accordance with paragraph 30 of the Lead State's General Provisions (Exhibit C).</p> <p>Purchasing Entities may pay by check, electronic funds transfer, or by a State Purchasing card (P-card). The Contractor will be solely responsible for the credit card user-handling fee associated with credit card purchases.</p> <p>Participating States and Entities may have their own payment terms which will be identified within individual Participating Addendums.</p>
3.	<p>State of California CAL-Card Invoicing</p> <p>For orders paid through CAL-Card, invoices are to be processed separately from other payment methods and submitted to the CAL-Card</p>

Item	Description
	<p>account holder. For additional information, visit the <u>CAL-Card Program website</u> (https://www.dgs.ca.gov/cal-card).</p> <p>The total invoice amount for each order paid by CAL-Card must reflect a zero balance due or credit, if applicable, and identified as "paid by CAL-Card".</p>

H. Reporting

Item	Description
1.	<p>Usage Report (Lead State)</p> <p>During the term of the Master Agreement, Contractor shall submit usage reports on a quarterly basis to the Lead State Contract Administrator for all California Purchasing Entity sales using the report template provided by the Lead State Contract Administrator.</p> <p>Usage Report will contain the following data elements at a minimum:</p> <ul style="list-style-type: none"> • Ordering Agency Name • Agency Type (State/Local) • Purchase Order Number • Order Date • Category • Manufacturer Part Number (OEM #) • Item Description • Unit of Measure • Quantity • List Price/MSRP • Unit Price • Extended Price Paid • Catalog Version Date <p>The Lead State Contract Administrator reserves the right to modify the reporting template and require Contractor to provide additional order information during the course of this Agreement.</p> <p>The report shall be an Excel spreadsheet transmitted electronically to PDCooperatives@dgs.ca.gov.</p> <p>The report is due even when there is no activity. Any report that does not follow the required format or that excludes information will be deemed incomplete. Contractor will be responsible for gsubmitting corrected</p>

Item	Description
	<p>reports within five (5) business days of the date of written notification from the State.</p> <p>Tax must not be included in the report, even if it is on the purchase order.</p> <p>Reports are due by the 30th day following a calendar quarter. Failure to meet reporting requirements and submit the reports on a timely basis shall constitute grounds for suspension of the Master Agreement.</p> <p>Amendment for term extensions may be approved only if all quarterly reports due have been submitted to the Lead State.</p> <p>The Lead State Contract Administrator will provide the reporting template upon award.</p>
2.	<p>Participating State/Entity Reporting</p> <p>Contractor must provide usage reporting to Participating States and Entities as defined in the individual Participating Addendum.</p>
3.	<p>NASPO ValuePoint Summary and Detail Usage Reports</p> <p>Contractor shall submit specific summary and detailed usage reports directly to NASPO ValuePoint as set forth in Section V of the NASPO ValuePoint Master Agreement Terms (Exhibit D).</p> <p>The Lead State Contract Administrator will provide the Detail Usage Report template upon award.</p>
4.	<p>Ad Hoc Reporting</p> <p>Contractor shall have the ability to provide ad hoc reports at no cost to the Lead State. Upon written request, Contractor shall permit and provide access to all data that pertains to any procurement action taken by a Purchasing Entity or Participating Entity as a whole. The Lead State or Purchasing Entity may make copies of procurement data in any form and the use of such data shall not be restricted.</p> <p>Dependent on future reporting requirements, the Lead State may ask that certain reports become standard and delivered to the Lead State on a monthly or quarterly basis.</p>
5.	<p>Lead State Administrative Fee</p> <p>Contractor shall remit a quarterly Lead State administrative fee of 1.25 percent of all goods purchased by California Purchasing Entities for each reporting quarter. Prices submitted shall not reflect the California administrative fee. The Lead State administrative fee shall not be</p>

Item	Description
	<p>invoiced or charged to the ordering agency and is specific to California only.</p> <p>This fee will be due to the Lead State on the 30th day following the ending of the quarterly reporting period. Payment of the Lead State administrative fee is due irrespective of payment status on orders or service contracts from a Purchasing Entity.</p>
6.	<p>NASPO ValuePoint Administrative Fee</p> <p>Contractor shall remit a NASPO ValuePoint administrative fee as specified in Section V of the NASPO ValuePoint Master Agreement Terms (Exhibit D).</p>
7.	<p>Participating Entity Administrative Fee</p> <p>If a Participating Entity requires an administrative fee, each fee will be negotiated and articulated in the individual state's Participating Addendum.</p>

I. Management and Customer Service

Item	Description
1.	<p>Contractor Responsibility</p> <p>Contractor shall be responsible for successful contract performance of the Master Agreement and successful performance of any and all of their subcontractors.</p> <p>Contractor agrees to comply with requirements under the Master Agreement, even if requirements are delegated to subcontractors. All Lead State policies, guidelines, and requirements apply to subcontractors. The prime Contractor and subcontractor(s) shall not in any way represent themselves in the name of the Lead State without prior written approval.</p> <p>Furthermore, the Lead State will consider the prime Contractor to be the sole point of contact with regard to contractual matters, payments, warranty issues, for the term of the Master Agreement and any extensions.</p> <p>Use of subcontractors will be addressed within each state's Participating Addendum.</p>

Item	Description
2.	<p>Lead State Contract Administrator</p> <p>The Lead State Contract Administrator will be the contact person for issues relating to the Master Agreement. Any modifications to the requirements contained in the Master Agreement may only be authorized by the State Contract Administrator or his/her designee through Master Agreement Amendment.</p>
3.	<p>Contractor Contract Manager</p> <p>Contractor will assign a contact person for contract management purposes. The Contractor Contract Manager must be authorized to make decisions on behalf of the Contractor.</p>
4.	<p>Changes in Contract Manager</p> <p>Contractor must notify the Lead State Contract Administrator of Contractor Contract Manager changes in writing within 10 calendar days of the change.</p>
5.	<p>Contractor Name Change</p> <p>An amendment is required to change the Contractor's name as listed on this agreement.</p> <p>Contractor shall notify the Lead State of any name change. Upon receipt of legal documentation of the name change the Lead State will process the amendment. Payment of invoices presented with a new name cannot be paid prior to approval of said amendment.</p>
6.	<p>Customer Service Unit</p> <p>Contractor will have a customer service unit that supports this Master Agreement. The customer service unit shall provide office and personnel resources for responding to inquiries, including telephone and email coverage weekdays during business hours.</p> <p>The customer service unit shall be staffed with individuals that:</p> <ul style="list-style-type: none">• Are trained in the requirements of this contract• Have the authority to take administrative action to correct problems that may occur• Are designated for training and general customer service follow-up <p>Contractor shall respond to customer inquiries within one (1) business day of initial contact.</p> <p>Prior to Master Agreement award, Contractor shall provide customer service information to the Lead State within five (5) business days of written request.</p>

J. Transition / End of Agreement

Item	Description
1.	<p>Transition Plan at End of Contract</p> <p>Contractor agrees that at the end of this Master Agreement, should the Lead State conduct another procurement and award a new Master Agreement, the Contractor will work with the Lead State Contract Administrator, if requested to ensure that an efficient and effective transition takes place.</p> <p>Upon termination or expiration of the Master Agreement the following will occur:</p> <ul style="list-style-type: none"> • All on-line offering systems and Electronic Catalog functions supported and/or available as part of the Master Agreement will cease and be removed from public viewing access without redirecting to another website. • Customer data/user accounts acquired during the term of the contract shall be destroyed or returned to the Lead State at the request of the Lead State Contract Administrator. • No references to the Master Agreement shall be made after contract end on the Contractor's commercial website without permission by the State Contract Administrator. • All invoicing disputes and/or order tracking will be conducted through the Contractor's Customer Service Unit via telephone or email.

K. Environmentally Preferable Purchasing

The following requirements are specific to the State of California and may be incorporated within Participating Addenda at the Participating Entity's discretion.

Item	Description
1.	<p>Environmentally Preferable Purchasing (EPP)</p> <p>California Department of General Services is responsible for the implementation of EPP as mandated by the California Public Contract Code (PCC), Chapter 6, sections 12400-12404. Contractor certifies the products or services offered comply with the Federal Trade Commission's Guidelines for the Use of Environmental Marketing Terms (PCC Section 12404).</p>
2.	<p>Post-Consumer Recycled Content (PCRC) Certification</p> <p>California state agencies are required to report purchases made within eleven (11) product categories in the California Department of Resources Recycling and Recovery's (CalRecycle), State Agency Buy Recycled</p>

Item	Description
	<p>Campaign (SABRC) in accordance with Public Contract Code sections 12200-12217. In order to comply with those requirements, Contractor will be required to certify in writing the minimum percentage, if not the exact percentage, of post-consumer recycled content (PCRC) material in each of the products ordered, upon request.</p>
3.	<p>Green Product Marking and Labeling</p> <p>Contractor shall identify products that possess third party environmental certifications on the Electronic Catalog.</p>
4.	<p>Wheel Weights</p> <p>California law prohibits the manufacture, sale, or installation of wheel weights containing more than 0.1% lead. California Health and Safety Code Section 25215.6-25215.7 (https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-25215-6.html).</p>
5.	<p>Mercury Containing Products</p> <p>A person cannot sell or distribute for promotional purposes, in California, certain types of new or refurbished products and devices that contain mercury. This law can be found in Health and Safety Code, Division 20, Chapter 6.5; Mercury-Added Thermostats, Relays, Switches, and Measuring Devices (Sections 25214.8.1-25214.8.6). (https://codes.findlaw.com/ca/health-and-safety-code/hsc-sect-25214-8-4.html).</p>
6.	<p>Consumer Products</p> <p>Contractor may not sell, supply, offer for sale, or manufacture for sale in California consumer products that do not comply with the Consumer Products Regulatory Program, whose aim is to reduce the amount of volatile organic compounds (VOCs), toxic air contaminants (TACs), and greenhouse gases (GHGs) that are emitted from using chemically formulated consumer products. Background information including enforcement of the program can be found at: https://ww2.arb.ca.gov/our-work/programs/consumer-products-program/about. Regulations for the program can be found in Article 2: Regulation for Reducing Emissions from Consumer Products, commonly referred to as the General Consumer Products Regulation.</p>
7.	<p>Brake Friction Material</p> <p>All motor vehicle brake friction materials sold in California must meet the requirements as identified in California Health and Safety Code Section 25250.51 (Source: https://dtsc.ca.gov/wp-content/uploads/sites/31/2018/07/Final_regulation_language_10032016.pdf).</p>

EXHIBIT B: CATEGORY DISCOUNTS

Category	Description	Percent Discount Off MSRP
1	Air Conditioning	52%
2	Alternators and Starters	53%
3	Batteries	46%
4	Bearings, Ball and Roller	55%
5	Belts and Hoses	48%
6	Brakes	56%
7	Electrical and Ignition	52%
8	Emission, Sensors and Exhaust	54%
9	Engine and Drive Train	52%
10	Filters, Oil, Gas, Air and Transmission	72%
11	Gaskets and Seals	50%
12	Heating and Cooling (Engine)	53%
13	Lamps, Lighting and Mirrors	53%
14	Oils, Chemicals, Fluids and Lubricants	52%
15	Pumps, Fuel and Water	52%
16	Suspension, Shocks, Struts and Steering	52%
17	Wipers/Washers	59%
18	Winter Accessories	54%
19	General Automotive Parts (Aftermarket Automotive Parts not included in Categories 1-18.)	50%
20	Automotive Repair Shop Supplies and Equipment/Tools (e.g., cleaning supplies, wrenches, etc.)	46%

EXHIBIT C: LEAD STATE GENERAL PROVISIONS

Non-IT General Provisions (6/8/2010) is hereby incorporated by reference and made part of this agreement as if attached hereto. This document can be viewed at: <https://www.dgs.ca.gov/PD/Resources/Page-Content/Procurement-Division-Resources-List-Folder/Model-Contract-Language>

These terms are applicable for State of California purchases only.

EXHIBIT D: NASPO VALUEPOINT MASTER AGREEMENT TERMS

I. Definitions

- 1.1 **Acceptance** means acceptance of goods and services as set forth in Section IX of this Master Agreement.
- 1.2 **Contractor** means a party to this Master Agreement, whether a person or entity, that delivers goods or performs services under the terms set forth in this Master Agreement.
- 1.3 **Embedded Software** means one or more software applications which permanently reside on a computing device.
- 1.4 **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.
- 1.5 **Lead State** means the State centrally administering any resulting Master Agreement(s) who is a party to this Master Agreement.
- 1.6 **Master Agreement** means the underlying agreement executed by and between the Lead State, acting in cooperation with NASPO ValuePoint, and the Contractor, as now or hereafter amended.
- 1.7 **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports, as well as other contract administration functions as assigned by the Lead State.
- 1.8 **Order** or **Purchase Order** means any purchase order, sales order, contract or other document used by a Purchasing Entity to order the Products.
- 1.9 **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any additional Participating Entity-specific language or other requirements (e.g., ordering procedures specific to the Participating Entity, entity-specific terms and conditions, etc.).
- 1.10 **Participating Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

- 1.11 **Participating State** means a state that has executed a Participating Addendum or has indicated an intent to execute a Participating Addendum.
- 1.12 **Product or Products and Services** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Product includes goods and services.
- 1.13 **Purchasing Entity** means a state (as well as the District of Columbia and US territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order against the Master Agreement and becomes financially committed to the purchase.

II. Term of Master Agreement

- 2.1 **Initial Term.** The initial term and extension options for this Master Agreement is listed in Section 2 of Exhibit A, Scope of Work.
- 2.2 **Amendment Limitations.** The terms of this Master Agreement will not be waived, altered, modified, supplemented, or amended in any manner whatsoever without prior written agreement of the Lead State and Contractor.
- 2.3 **Amendment Term.** The term of the Master Agreement may be amended past the initial term and stated renewal periods for a reasonable period if in the judgment of the Lead State a follow-on competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection will not be deemed to limit the authority of a Lead State under its state law to otherwise negotiate contract extensions.

III. Order of Precedence

- 3.1 **Order.** The following order of precedence shall apply for Orders executed by Purchasing Entities:
 - 3.1.1 A Participating Entity's Participating Addendum ("PA");
 - 3.1.2 NASPO ValuePoint Master Agreement, including all attachments thereto;
 - 3.1.3 A Purchase Order issued against the Master Agreement;
 - 3.1.4 The Solicitation or, if separately executed after award, the Lead State's bilateral agreement that integrates applicable provisions;
 - 3.1.5 Contractor's response to the Solicitation, as revised (if permitted) and accepted by the Lead State.
- 3.2 **Conflict.** These documents will be read to be consistent and complementary. Any conflict among these documents will be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

- 3.3 Participating Addenda.** Participating Addenda will not be construed to diminish, modify, or otherwise derogate any provisions in this Master Agreement between the Lead State and Contractor. Participating Addenda will not include a term of agreement that exceeds the term of the Master Agreement.

IV. Participants and Scope

- 4.1 Requirement for a Participating Addendum.** Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed.
- 4.2 Applicability of Master Agreement.** NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum, subject to Section III. For the purposes of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g., purchase order or contract) used by the Purchasing Entity to place the Order.
- 4.3 Authorized Use.** Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities is subject to applicable state law and the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.
- 4.4 Obligated Entities.** Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Participating Entities incur no financial obligations on behalf of other Purchasing Entities.
- 4.5 Notice of Participating Addendum.** Contractor shall email a fully executed PDF copy of each Participating Addendum to pa@naspovaluepoint.org to support documentation of participation and posting in appropriate databases.

- 4.6 Eligibility for a Participating Addendum.** Eligible entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent of the Chief Procurement Official of the state where the entity is located. Entities should coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists; the entity must ensure that they have the requisite procurement authority to execute a Participating Addendum.
- 4.7 Prohibition on Resale.** Subject to any specific conditions included in the solicitation or Contractor's proposal as accepted by the Lead State, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products purchased under this Master Agreement. Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.
- 4.8 Individual Customers.** Except as may otherwise be agreed to by the Purchasing Entity and Contractor, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement and as the Participating Entity has in the Participating Addendum, including but not limited to any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.
- 4.9 Release of Information.** Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan.
- 4.10 No Representations.** The Contractor shall not make any representations of NASPO ValuePoint, the Lead State, any Participating Entity, or any Purchasing Entity's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent.

V. NASPO ValuePoint Provisions

5.1 Applicability. NASPO ValuePoint is not a party to the Master Agreement. The terms set forth in Section V are for the benefit of NASPO ValuePoint as a third-party beneficiary of this Master Agreement.

5.2 Administrative Fees

5.2.1 NASPO ValuePoint Fee. Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee must be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable. This fee is to be included as part of the pricing submitted with a vendor's response to the Lead State's solicitation.

5.2.2 State Imposed Fees. Some states may require an additional fee be paid directly to the state on purchases made by Purchasing Entities within that state. For all such requests, the fee rate or amount, payment method and schedule for such reports and payments will be incorporated into the applicable Participating Addendum. Unless agreed to in writing by the state, Contractor may not adjust the Master Agreement pricing to include the state fee for purchases made by Purchasing Entities within the jurisdiction of the state. No such agreement will affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

5.3 NASPO ValuePoint Summary and Detailed Usage Reports

5.3.1 Summary Sales Data. The Contractor shall submit quarterly sales reports directly to NASPO ValuePoint using the NASPO ValuePoint Quarterly Sales/Administrative Fee Reporting Tool found at <http://calculator.naspovaluepoint.org>. All sales made under this Master Agreement must be reported as cumulative totals by state. Contractor must submit a report for each quarter, including quarters during which a Contractor has no sales, in which case this will be indicated in the Reporting Tool. Reports must be submitted no later than thirty (30) days following the end of the calendar quarter (as specified in the reporting tool).

5.3.2 Detailed Sales Data. Contractor shall also report detailed sales data by: (1) state; (2) entity/customer type, e.g. local government, higher education, K12, non-profit; (3) Purchasing Entity name; (4) Purchasing Entity bill-to and ship-to locations; (4) Purchasing Entity and Contractor Purchase Order identifier/number(s); (5) Purchase Order Type (e.g. sales order, credit, return, upgrade, determined by industry practices); (6) Purchase Order date; (7) Ship Date; (8) and

line item description, including product number if used. The report must be submitted in any form required by the solicitation. Reports are due on a quarterly basis and must be received by the Lead State and NASPO ValuePoint Cooperative Development Team no later than thirty (30) days following the end of the calendar quarter. Reports must be delivered to the Lead State and to the NASPO ValuePoint Cooperative Development Team electronically through a designated portal or other method as determined by the Lead State and NASPO ValuePoint. Detailed sales data reports must include sales information for all sales under Participating Addenda executed under this Master Agreement.

5.3.3 Reporting on Personal Use. Reportable sales for the summary sales data report and detailed sales data report includes sales to employees for personal use where authorized by the solicitation and the Participating Addendum. Report data for employees should be limited to ONLY the state and entity ((state and agency, city, county, school district, etc.) under whose authority the employee is purchasing Product for personal use and the amount of sales. No personal identification numbers (*e.g.*, names, addresses, **social security numbers or any other numerical identifier**) may be submitted with any report.

5.3.4 Executive Summary. Contractor shall provide the NASPO ValuePoint Cooperative Development Coordinator with an executive summary each quarter that includes, at a minimum, a list of states with an active Participating Addendum, states that Contractor is in negotiations with and any Participating Addendum roll out or implementation activities and issues. NASPO ValuePoint Cooperative Development Coordinator and Contractor will determine the format and content of the executive summary. The executive summary is due thirty (30) days after the conclusion of each calendar quarter.

5.3.5 Use of Data. Timely submission of these reports is a material requirement of the Master Agreement. The recipient of the reports will have exclusive ownership of the media containing the reports. The Lead State and NASPO ValuePoint shall have a perpetual, irrevocable, non-exclusive, royalty free, transferable right to display, modify, copy, and otherwise use reports, data and information provided under this section.

5.4 NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review

5.4.1 Staff Education. Contractor shall work cooperatively with NASPO ValuePoint personnel. Contractor shall present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of

- NASPO ValuePoint procurements, the master agreement and participating addendum process, and the manner in which eligible entities can participate in the Master Agreement.
- 5.4.2 Onboarding Plan.** Upon request by NASPO ValuePoint, Contractor shall, as Participating Addendums are executed, provide plans to launch the program for the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the scope and terms of the Master Agreement as available to the Participating Entity and eligible Purchasing Entities.
- 5.4.3 Annual Contract Performance Review.** Contractor shall participate in an annual contract performance review with the Lead State and NASPO ValuePoint, which may at the discretion of the Lead State be held in person and which may include a discussion of marketing action plans, target strategies, marketing materials, Contractor reporting, and timeliness of payment of administration fees.
- 5.4.4 Use of NASPO ValuePoint Logo.** The NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a separate logo use agreement is executed with NASPO ValuePoint.
- 5.4.5 Most Favored Customer.** Contractor shall, within thirty (30) days of their effective date, notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions provided to another competing cooperative. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions.
- 5.5 Cancellation.** In consultation with NASPO ValuePoint, the Lead State may, in its discretion, cancel the Master Agreement or not exercise an option to renew, when utilization of Contractor's Master Agreement does not warrant further administration of the Master Agreement. The Lead State may also exercise its right to not renew the Master Agreement if vendor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two (2) years after execution of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State to cancel the Master Agreement or terminate for default subject to the terms herein. This subsection also does not limit any right of the Lead State to cancel the Master Agreement under applicable laws.
- 5.6 Canadian Participation.** Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador, Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities,

universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

- 5.7 Additional Agreement with NASPO.** Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

VI. Pricing, Payment & Leasing

- 6.1 Pricing.** The discounts contained in this Master Agreement represent the minimum discount to any Purchasing Entity.
- 6.1.1** All discounts must be guaranteed for the entire term of the Master Agreement, including extension years.
- 6.2 Payment.** Unless otherwise agreed upon in a Participating Addendum or Order, Payment after Acceptance will be made within forty-five (45) days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum or Order, or otherwise prescribed by applicable law. Payments will be remitted in the manner specified in the Participating Addendum or Order. Payments may be made via a purchasing card with no additional charge.
- 6.3 Leasing or Alternative Financing Methods.** The procurement and other applicable laws of some Purchasing Entities may permit the use of leasing or alternative financing methods for the acquisition of Products under this Master Agreement. Where the terms and conditions are not otherwise prescribed in an applicable Participating Addendum, the terms and conditions for leasing or alternative financing methods are subject to negotiation between the Contractor and Purchasing Entity.

VII. Ordering

- 7.1 Order Numbers.** Master Agreement, Participating Addendum, and purchase order numbers must be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.
- 7.2 Quotes.** Purchasing Entities may define entity-specific or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be

solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost, and other factors considered.

7.3 Applicable Rules. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies and/or services contemplated by this Master Agreement.

7.4 Required Documentation. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

7.5 Term of Purchase. Orders may be placed consistent with the terms of this Master Agreement and applicable Participating Addendum during the term of the Master Agreement and Participating Addendum.

7.5.1 Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement.

7.5.2 Notwithstanding the previous, Orders must also comply with the terms of the applicable Participating Addendum, which may further restrict the period during which Orders may be placed or delivered.

7.5.3 Financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

7.5.4 Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor shall perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation, or termination of this Master Agreement, or in any manner inconsistent with this Master Agreement's terms.

7.5.5 Orders for any separate indefinite quantity, task order, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

7.6 Order Form Requirements. All Orders pursuant to this Master Agreement, at a minimum, must include:

7.6.1 The services or supplies being delivered;

7.6.2 A shipping address and other delivery requirements, if any;

7.6.3 A billing address;

7.6.4 Purchasing Entity contact information;

7.6.5 Pricing consistent with this Master Agreement and applicable Participating Addendum and as may be adjusted by agreement of the Purchasing Entity and Contractor;

- 7.6.6 A not-to-exceed total for the products or services being ordered;
and
- 7.6.7 The Master Agreement number or the applicable Participating Addendum number, provided the Participating Addendum references the Master Agreement number.
- 7.7 **Communication.** All communications concerning administration of Orders placed must be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.
- 7.8 **Contract Provisions for Orders Utilizing Federal Funds.** Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

VIII. Shipping and Delivery

- 8.1 **Shipping Terms.** All deliveries will be F.O.B. destination, freight pre-paid, with all transportation and handling charges paid by the Contractor.
 - 8.1.1 Notwithstanding the above, responsibility and liability for loss or damage will remain the Contractor's until final inspection and acceptance when responsibility will pass to the Purchasing Entity except as to latent defects, fraud, and Contractor's warranty obligations.
- 8.2 **Minimum Shipping.** The minimum shipment amount, if any, must be contained in the Master Agreement. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered will be shipped without charge.
- 8.3 **Inside Deliveries.** To the extent applicable, all deliveries will be "Inside Deliveries" as designated by a representative of the Purchasing Entity placing the Order. Inside Delivery refers to a delivery to a location other than a loading dock, front lobby, or reception area. Specific delivery instructions will be noted on the order form or Purchase Order. Costs to repair any damage to the building interior (e.g., scratched walls, damage to the freight elevator, etc.) caused by Contractor or Contractor's carrier will be the responsibility of the Contractor. Immediately upon becoming aware of such damage, Contractor shall notify the Purchasing Entity placing the Order.
- 8.4 **Packaging.** All products must be delivered in the manufacturer's standard package. Costs must include all packing and/or crating charges. Cases must be of durable construction, in good condition, properly labeled and suitable in every respect for storage and handling of contents. Each

shipping carton must be marked with the commodity, brand, quantity, item code number and the Purchasing Entity's Purchase Order number.

IX. Inspection and Acceptance

- 9.1 Laws and Regulations.** Any and all Products offered and furnished must comply fully with all applicable Federal, State, and local laws and regulations.
- 9.2 Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section IX will apply. This section is not intended to limit rights and remedies under the applicable commercial code.
- 9.3 Inspection.** All Products are subject to inspection at reasonable times and places before Acceptance. Contractor shall provide right of access to the Lead State, or to any other authorized agent or official of the Lead State or other Participating or Purchasing Entity, at reasonable times, to monitor and evaluate performance, compliance, and/or quality assurance requirements under this Master Agreement.
- 9.3.1** Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use.
- 9.3.2** Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked.
- 9.4 Failure to Conform.** If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements and reduce the contract price to reflect the reduced value of services performed.
- 9.5 Acceptance Testing.** Purchasing Entity may establish a process, in keeping with industry standards, to ascertain whether the Product meets the standard of performance or specifications prior to Acceptance by the Purchasing Entity.
- 9.5.1** The Acceptance Testing period will be thirty (30) calendar days, unless otherwise specified, starting from the day after the Product is delivered or, if installed by Contractor, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing.

- 9.5.2 If the Product does not meet the standard of performance or specifications during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met.
- 9.5.3 Upon rejection, the Contractor will have fifteen (15) calendar days to cure. If after the cure period, the Product still has not met the standard of performance or specifications, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.
- 9.5.4 Contractor shall pay all costs related to the preparation and shipping of Product returned pursuant to the section.
- 9.5.5 No Product will be deemed Accepted and no charges will be paid until the standard of performance or specification is met.

X. Warranty

- 10.1 **Applicability.** Unless otherwise specified in the Master Agreement, Participating Addendum, or ordering document, the terms of this Section X will apply.
- 10.2 **Warranty.** The Contractor warrants for a period of one year from the date of Acceptance that: (a) the Product performs according to all specific claims that the Contractor made in its response to the solicitation, (b) the Product is suitable for the ordinary purposes for which such Product is used, (c) the Product is suitable for any special purposes identified in the solicitation or for which the Purchasing Entity has relied on the Contractor's skill or judgment, (d) the Product is designed and manufactured in a commercially reasonable manner, and (e) the Product is free of defects.
- 10.3 **Breach of Warranty.** Upon breach of the warranty set forth above, the Contractor will repair or replace (at no charge to the Purchasing Entity) the Product whose nonconformance is discovered and made known to the Contractor. If the repaired and/or replaced Product proves to be inadequate, or fails of its essential purpose, the Contractor will refund the full amount of any payments that have been made.
- 10.4 **Rights Reserved.** The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs.
- 10.5 **Warranty Period Start Date.** The warranty period will begin upon Acceptance, as set forth in Section IX.

XI. Product Title

- 11.1 Conveyance of Title.** Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Product free and clear of all liens, encumbrances, or other security interests.
- 11.2 Embedded Software.** Transfer of title to the Product must include an irrevocable and perpetual license to use any Embedded Software in the Product. If Purchasing Entity subsequently transfers title of the Product to another entity, Purchasing Entity shall have the right to transfer the license to use the Embedded Software with the transfer of Product title. A subsequent transfer of this software license will be at no additional cost or charge to either Purchasing Entity or Purchasing Entity's transferee.
- 11.3 License of Pre-Existing Intellectual Property.** Contractor grants to the Purchasing Entity a nonexclusive, perpetual, royalty-free, irrevocable, license to use, publish, translate, reproduce, transfer with any sale of tangible media or Product, perform, display, and dispose of the Intellectual Property, and its derivatives, used or delivered under this Master Agreement, but not created under it ("Pre-existing Intellectual Property"). The Contractor shall be responsible for ensuring that this license is consistent with any third-party rights in the Pre-existing Intellectual Property.

XII. Indemnification

- 12.1 General Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees, from and against third-party claims, damages or causes of action including reasonable attorneys' fees and related costs for any death, injury, or damage to tangible property arising from any act, error, or omission of the Contractor, its employees or subcontractors or volunteers, at any tier, relating to performance under this Master Agreement.
- 12.2 Intellectual Property Indemnification.** The Contractor shall defend, indemnify and hold harmless NASPO, NASPO ValuePoint, the Lead State, Participating Entities, Purchasing Entities, along with their officers and employees ("Indemnified Party"), from and against claims, damages or causes of action including reasonable attorneys' fees and related costs arising out of the claim that the Product or its use infringes Intellectual Property rights of another person or entity ("Intellectual Property Claim").
- 12.2.1** The Contractor's obligations under this section will not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:
- 12.2.1.1** provided by the Contractor or the Contractor's subsidiaries or affiliates;
 - 12.2.1.2** specified by the Contractor to work with the Product;
 - 12.2.1.3** reasonably required to use the Product in its intended manner, and the infringement could not have been

- avoided by substituting another reasonably available product, system or method capable of performing the same function; or
- 12.2.1.4** reasonably expected to be used in combination with the Product.
- 12.2.2** The Indemnified Party shall notify the Contractor within a reasonable time after receiving notice of an Intellectual Property Claim. Even if the Indemnified Party fails to provide reasonable notice, the Contractor shall not be relieved from its obligations unless the Contractor can demonstrate that it was prejudiced in defending the Intellectual Property Claim resulting in increased expenses or loss to the Contractor. If the Contractor promptly and reasonably investigates and defends any Intellectual Property Claim, it shall have control over the defense and settlement of the Intellectual Property Claim. However, the Indemnified Party must consent in writing for any money damages or obligations for which it may be responsible.
- 12.2.3** The Indemnified Party shall furnish, at the Contractor's reasonable request and expense, information and assistance necessary for such defense. If the Contractor fails to vigorously pursue the defense or settlement of the Intellectual Property Claim, the Indemnified Party may assume the defense or settlement of the Intellectual Property Claim and the Contractor shall be liable for all costs and expenses, including reasonable attorneys' fees and related costs, incurred by the Indemnified Party in the pursuit of the Intellectual Property Claim.
- 12.2.4** Unless otherwise set forth herein, Section 12.2 is not subject to any limitations of liability in this Master Agreement or in any other document executed in conjunction with this Master Agreement.

XIII. Insurance

- 13.1 Term.** Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. A Participating Entity may negotiate alternative Insurance requirements in their Participating Addendum.
- 13.2 Class.** Contractor shall acquire such insurance from an insurance carrier or carriers licensed to conduct business in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.
- 13.3 Coverage.** Coverage must be written on an occurrence basis. The minimum acceptable limits will be as indicated below:

- 13.3.1** Contractor shall maintain Commercial General Liability insurance covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than \$1 million per occurrence and \$2 million general aggregate;
- 13.3.2** Contractor shall maintain motor vehicle liability with limits not less than \$1,000,000 combined single limit per accident. Such insurance shall cover liability arising out of a motor vehicle including owned, hired, and non-owned motor vehicles.
- 13.3.3** Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.
- 13.4 Notice of Cancellation.** Contractor shall pay premiums on all insurance policies. Contractor shall provide notice to a Participating Entity who is a state within five (5) business days after Contractor is first aware of expiration, cancellation or nonrenewal of such policy or is first aware that cancellation is threatened or expiration, nonrenewal or expiration otherwise may occur.
- 13.5 Notice of Endorsement.** Prior to commencement of performance, Contractor shall provide to the Lead State a written endorsement to the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) provides that written notice of cancellation will be delivered in accordance with the policy provisions, and (2) provides that the Contractor's liability insurance policy will be primary, with any liability insurance of any Participating State as secondary and noncontributory.
- 13.6 Participating Entities.** Contractor shall provide to Participating States and Participating Entities the same insurance obligations and documentation as those specified in Section XIII, except the endorsement is provided to the applicable Participating State or Participating Entity.
- 13.7 Furnishing of Certificates.** Contractor shall furnish to the Lead State copies of certificates of all required insurance in a form sufficient to show required coverage within thirty (30) calendar days of the execution of this Master Agreement and prior to performing any work. Copies of renewal certificates of all required insurance will be furnished within thirty (30) days after any renewal date to the applicable state Participating Entity. Failure to provide evidence of coverage may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.
- 13.8 Disclaimer.** Insurance coverage and limits will not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

XIV. General Provisions

14.1 Records Administration and Audit

14.1.1 The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as will adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right will survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Master Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

14.1.2 Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

14.1.3 The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement that requires the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

14.2 Confidentiality, Non-Disclosure, and Injunctive Relief

14.2.1 Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

14.2.1.1 Any and all information of any form that is marked as confidential or would by its nature be deemed confidential obtained by Contractor or its employees or agents in the performance of this Master Agreement, including but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is

- confidential information of Purchasing Entity ("Confidential Information").
- 14.2.1.2** Any reports or other documents or items (including software) that result from the use of the Confidential Information by Contractor shall be treated in the same manner as the Confidential Information.
- 14.2.1.3** Confidential Information does not include information that (1) is or becomes (other than by disclosure by Contractor) publicly known; (2) is furnished by Purchasing Entity to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in Contractor's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than Purchasing Entity without the obligation of confidentiality, (5) is disclosed with the written consent of Purchasing Entity; or (6) is independently developed by employees, agents or subcontractors of Contractor who can be shown to have had no access to the Confidential Information.
- 14.2.2 Non-Disclosure.** Contractor shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.
- 14.2.2.1** Contractor shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.
- 14.2.2.2** Without limiting the generality of the foregoing, Contractor shall advise Purchasing Entity, applicable Participating Entity, and the Lead State immediately if Contractor learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and Contractor shall at its expense cooperate with Purchasing Entity in seeking injunctive or other equitable relief in the name of Purchasing Entity or Contractor against any such person.
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- 14.2.2.3** Except as directed by Purchasing Entity, Contractor will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at Purchasing Entity's request, Contractor shall turn over to Purchasing Entity all documents, papers, and other matter in Contractor's possession that embody Confidential Information.
- 14.2.2.4** Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits, and evidence of the performance of this Master Agreement.
- 14.2.3 Injunctive Relief.** Contractor acknowledges that Contractor's breach of Section 14.2 would cause irreparable injury to the Purchasing Entity that cannot be inadequately compensated in monetary damages. Accordingly, Purchasing Entity may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.
- 14.2.4 Purchasing Entity Law.** These provisions will be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.
- 14.2.5 NASPO ValuePoint.** The rights granted to Purchasing Entities and Contractor's obligations under this section will also extend to NASPO ValuePoint's Confidential Information, including but not limited to Participating Addenda, Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line-item descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to this Master Agreement. To the extent permitted by law, Contractor shall notify the Lead State of the identify of any entity seeking access to the Confidential Information described in this subsection.
- 14.2.6 Public Information.** This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

14.3 Assignment/Subcontracts

14.3.1 Contractor shall not assign, sell, transfer, subcontract or sublet rights, or delegate responsibilities under this Master Agreement, in whole or in part, without the prior written approval of the Lead State.

14.3.2 The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties, to NASPO ValuePoint and other third parties.

14.4 Changes in Contractor Representation. The Contractor must, within ten (10) calendar days, notify the Lead State in writing of any changes in the Contractor's key administrative personnel managing the Master Agreement. The Lead State reserves the right to approve or reject changes in key personnel, as identified in the Contractor's proposal. The Contractor shall propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

14.5 Independent Contractor. Contractor is an independent contractor. Contractor has no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and shall not hold itself out as agent except as expressly set forth herein or as expressly set forth in an applicable Participating Addendum or Order.

14.6 Cancellation. Unless otherwise set forth herein, this Master Agreement may be canceled by either party upon sixty (60) days' written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon thirty (30) days' written notice, unless otherwise limited or stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision will not affect the rights and obligations attending Orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate.

14.7 Force Majeure. Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or acts of war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement upon determining such delay or default will reasonably prevent successful performance of the Master Agreement.

14.8 Defaults and Remedies

14.8.1 The occurrence of any of the following events will be an event of default under this Master Agreement:

- 14.8.1.1** Nonperformance of contractual requirements;
 - 14.8.1.2** A material breach of any term or condition of this Master Agreement;
 - 14.8.1.3** Any certification, representation or warranty by Contractor in response to the solicitation or in this Master Agreement that proves to be untrue or materially misleading;
 - 14.8.1.4** Institution of proceedings under any bankruptcy, insolvency, reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or
 - 14.8.1.5** Any default specified in another section of this Master Agreement.
- 14.8.2** Upon the occurrence of an event of default, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of fifteen (15) calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure will not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement.
- 14.8.3** If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:
 - 14.8.3.1** Any remedy provided by law;
 - 14.8.3.2** Termination of this Master Agreement and any related Contracts or portions thereof;
 - 14.8.3.3** Assessment of liquidated damages as provided in this Master Agreement;
 - 14.8.3.4** Suspension of Contractor from being able to respond to future bid solicitations;
 - 14.8.3.5** Suspension of Contractor's performance; and
 - 14.8.3.6** Withholding of payment until the default is remedied.
- 14.8.4** Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and

remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in an Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions will be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

- 14.9 Waiver of Breach.** Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies will not operate as a waiver under this Master Agreement, any Participating Addendum, or any Purchase Order. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order will not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, any Participating Addendum, or any Purchase Order.
- 14.10 Debarment.** The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in public procurement or contracting by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.
- 14.11 No Waiver of Sovereign Immunity**
- 14.11.1** In no event will this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.
- 14.11.2** This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of

immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

14.12 Governing Law and Venue

14.12.1 The procurement, evaluation, and award of the Master Agreement will be governed by and construed in accordance with the laws of the Lead State sponsoring and administering the procurement. The construction and effect of the Master Agreement after award will be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement will be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's state.

14.12.2 Unless otherwise specified in the RFP, the venue for any protest, claim, dispute or action relating to the procurement, evaluation, and award is in the state serving as Lead State. Venue for any claim, dispute or action concerning the terms of the Master Agreement will be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum will be in the Purchasing Entity's state.

14.12.3 If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to the procurement, evaluation, award, or contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

14.13 Assignment of Antitrust Rights. Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.



PORTFOLIO MAP

PORTFOLIO TITLE: Automotive Parts

LEAD STATE: California

OVERVIEW:

The State of California, in partnership with NASPO ValuePoint, has awarded Automotive Parts after conducting a single re-solicitation for the combined previous Automotive Parts portfolios: Aftermarket and Immediate Need Aftermarket.

The Master Agreements within this portfolio offer state and local government end users access to twenty (20) automotive parts categories.

Initial Term: Three (3) years

October 20, 2021 through October 19, 2024

Renewals: One (1) two-year period

Total Term Possible: Five (5) Years

KEY BENEFITS:

1. Expanded Category Offerings
2. Better Pricing - Received higher discounts from previous portfolio suppliers
3. Coverage - Retained two of the four incumbents and added one new supplier to provide coverage for participating entities
4. Flexibility - Agencies can order products online through an electronic catalog or at retail sales establishments

CATEGORY OFFERINGS:

1. Air Conditioning
2. Alternators and Starters
3. Batteries
4. Bearings, Ball and Roller
5. Belts and Hoses
6. Brakes
7. Electrical and Ignition
8. Emissions, Sensors and Exhaust
9. Engine and Drive Train
10. Filters, Oil, Gas, Air and Transmission
11. Gaskets and Seals
12. Heating and Cooling (Engine)
13. Lamps, Lighting and Mirrors
14. Oils, Chemicals, Fluids and Lubricants
15. Pumps, Fuel and Water
16. Suspension, Shocks, Struts and Steering
17. Wipers/Washers
18. Winter Accessories
19. General Automotive Parts
20. Automotive Repair Shop Supplies, Equipment and Tools

PRICING:

Master Agreement pricing is based on category discounts for each of the twenty (20) categories as submitted to the Lead State in each Bidder's proposal.

RFP INFORMATION:

- Solicitation Number: 7219941
- Released: 07/19/2021
- Closed: 08/27/2021
- Total Days Publicly Posted: 40 days
- Number of Addendums Posted: 1
- Pre-Proposal Conference 08/03/2021
- Supplier Attendance: 21 attendees

STATES ON SOURCING TEAM:

- California (Lead)
- Alaska
- Connecticut
- Oklahoma

VENDOR RESPONSES:

A total of 9 proposals were received. A total of 3 awards were recommended based on responsiveness and final rankings against the pre-established evaluation criteria.

EVALUATION INFO:

Virtual evaluations were led by the Lead State of California. The evaluation was completed by the Sourcing Team on 09/16/2021.

Responses were evaluated based on the following Evaluation Criteria:

- **Customer References:**
 - Timeliness
 - Contract/Order Management
 - Quality
 - Ordering
 - Reporting
 - Customer Satisfaction
- **Narrative Responses:**
 - Electronic Catalog Capabilities
 - Pricing Accuracy
 - Retail Sales Locations
- **Cost:**
 - Category Discounts
 - Bidders had to bid on all twenty (20) categories to be evaluated for award
- **Award Recommendation:**

In accordance with the RFP, "award will be made to the responsive and responsible Bidder with the highest Total Score, including all applicable preference points." The Total Score included two (2) scoring categories: Non-Cost Score (400 points) and Cost Score (600 points). No preference points were applied.

The RFP allowed additional awards to responsive and responsible Bidders if the Bidder's proposal was within twenty-five percent (25%) of the proposal with the highest Total Score including all applicable preference points.

AWARD:

Based on the RFP award methodology, the following Suppliers were awarded Master Agreements:

- **Elliott Auto Supply Co., Inc. dba Factory Motor Parts**
- **Genuine Parts Company dba NAPA Auto Parts**
- **Parts Authority, LLC**